

ORDINANCE NO. 3122

AN ORDINANCE AMENDING TITLE 22 OF THE SAN LUIS OBISPO COUNTY CODE, THE
LAND USE ORDINANCE, BY AMENDING SECTION 22.12.040 RELATING TO DENSITY
BONUS DETERMINATIONS AND 22.12.070 RELATING TO HOUSING AFFORDABILITY
STANDARDS

The Board of Supervisors of the County of San Luis Obispo ordains as follows:

SECTION 1. Section 22.12.040B of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

6. **Continued availability of affordable housing.** Affordable housing units provided in compliance with this Section shall be subject to the long-term housing affordability provisions described in Section 22.12.070.

SECTION 2: Section 22.12.070 of the Land Use Ordinance, Title 22 of the San Luis Obispo County Code, is hereby amended as follows:

22.12.070 - Housing Affordability Standards

- A. **Applicability.** Affordable housing units provided as a result of one or more of the following County actions shall be subject to the standards of this Section:
 1. Approval of a density bonus under Section 22.12.040 of the Land Use Ordinance, Title 22 of the County Code, or
 2. Approval of an exemption from growth management provisions under Subsection 26.01.034b of the Growth Management Ordinance, Title 26 of the County Code, or
 3. Deferment of the public facilities fees as described in subsection 18.04.010a(1) of the Public Facilities Fees Ordinance, Title 18 of the County Code, or
 4. Provision of direct financial assistance in the form of a grant (not a loan) to the development of affordable housing.
- B. **Eligible Household Definitions.** Households eligible to become renters or owner-occupants of affordable housing under provisions of the County Code must have incomes not exceeding one of the following income ceilings and they must agree to occupy said affordable housing as their principal residence. The County will consider actual income and imputed income from assets when determining eligibility.

1. Extremely low-income: no more than 30 percent of median income.
2. Very low-income: no more than 50 percent of median income.
3. Lower-income: no more than 80 percent of median income.
4. Moderate-income: no more than 120 percent of median income.
5. Workforce: no more than 160 percent of median income.

C. Determination of initial affordable housing sales prices. The following procedure is designed to determine sales prices that will enable purchase of the affordable housing units by the eligible households without their monthly housing costs exceeding 30 or 35 percent of their gross incomes. The Planning and Building Department shall use this procedure to determine maximum sales prices for each proposed land use permit or land division using estimates of actual costs of financing, property taxes, homeowner association fees, and insurance and shall publish typical examples quarterly.

1. **Determine median income.** First, find the applicable median income based on the household size. This information is published in Section 6932 of Title 25 of the California Code of Regulations. Both the household size and the size of the housing unit shall be used to determine the affordable housing sales price, as follows:
 - a. Studio: use the median income for a one-person household.
 - b. One-bedroom unit: use the median income for a two-person household.
 - c. Two-bedroom unit: use the median income for a three-person household.
 - d. Three-bedroom unit: use the median income for a four-person household.
 - e. Four bedroom unit: use the median income for a five-person household.
2. **Determine maximum housing costs.** Maximum housing costs by size of housing unit and eligible household group shall be calculated as the following percentages of the median income amounts determined in Subsection C.1., as follows:
 - a. Extremely low-income: 30 percent of 30 percent of median income as determined under Subsection C.1.
 - b. Very low-income: 30 percent of 50 percent of median income as determined under Subsection C.1.
 - c. Lower-income: 30 percent of 70 percent of median income as determined under Subsection C.1.
 - d. Moderate-income: 35 percent of 110 percent of median income as determined under Subsection C.1.
 - e. Workforce: 35 percent of 150 percent of median income as determined under Subsection C.1.

3. **Estimate housing costs other than payments on mortgage loan principal and interest.** The actual costs of property taxes, insurance and homeowner association dues shall be estimated by the Planning and Building Department for affordable housing units in each proposed land use or land division.
 4. **Determine amount of income available for payments of mortgage loan principal and interest.** The amount of income available for payments of mortgage principal and interest shall be determined by deducting the amounts for property taxes, insurance and homeowners associations dues estimated by Subsection C.3. from the maximum housing costs determined by Subsection C.2..
 5. **Determine mortgage interest rate.** The Planning and Building Department shall determine the annual percentage rate of conventional mortgage financing, amortized over 30 years, currently available in California at the time of building permit issuance.
 6. **Determine the maximum affordable sales price.** The Planning and Building Department shall determine the maximum affordable sales price using the income available for payment of mortgage loan principal and interest determined by Subsection C.4., the mortgage interest rate determined by Subsection C.5, and assuming the buyer can pay a down payment of 5 percent of the sales price.
- D. **Non-Sales.** In cases where no sale will occur, such as when an owner-builder is involved (a landowner who wishes to construct his primary residence on his own property), the sales price that would apply pursuant to Subsection C shall be used in meeting the long-term housing affordability provisions of Subsection F.
- E. **Rental units.** Rent levels of the affordable units, including allowances for the costs of utilities as determined by the Housing Authority of the City of San Luis Obispo, shall not exceed the following:
1. **Extremely low-income units:** 30 percent of 30 percent of the median household income as determined under Subsection C.1.
 2. **Very low-income units:** 30 percent of 50 percent of the median household income as determined under Subsection C.1.
 3. **Lower-income units:** 30 percent of 60 percent of the median household income as determined under Subsection C.1.
 4. **Moderate-income units:** 30 percent of 110 percent of the median household income as determined under Subsection C.1.
 5. **Workforce housing units:** 30 percent of 150 percent of the median household income as determined under Subsection C.1.
- F. **Continued availability of affordable housing.** Affordable housing units which are subject to the standards of this section shall continue to be reserved as affordable housing as follows:

1. **For sale units.** Prior to the issuance of any project construction permits the property owner and the County shall enter into and record a Master Affordable Housing Agreement, prepared by County Counsel, assuring that the project will provide designated affordable housing unit(s). When a designated affordable housing unit is first sold to an eligible buyer, or when the owner-builder of a designated affordable housing unit requests final permit approval for occupancy of his residence, the buyer and County or the owner-builder and County shall enter into an Option to Purchase at Restricted Price Agreement which shall be recorded as an encumbrance on the property, and secured by a recorded deed of trust. The said Option to Purchase at Restricted Price Agreement shall supercede the Master Affordable Housing Agreement. Under the terms of the Option to Purchase at Restricted Price Agreement, the maximum resale price of the housing unit shall be limited for a period of 45 years to the same formula used to determine the initial sales price, except that current information regarding median income, mortgage financing interest rate, taxes, insurance and homeowners association dues shall be applied. Adjustments to the maximum resale price as determined by the Planning and Building Department shall be made to ensure that the resale price is not lower than the original sales price, to increase the maximum resale price by the value of structural improvements made by the owner, and to comply with requirements of State or Federal mortgage lenders as necessary. Ownership of the property may only be transferred to a party that agrees to execute a new Option to Purchase at Restricted Price Agreement with a term of 45 years.

The provisions of this Section shall not impair the rights of a first mortgage lender secured by a recorded deed of trust. The purchase money lender(s) shall have a higher priority than the County's loan. The county's security shall be prioritized as a second mortgage. This first priority applies to the purchase money lender's assignee or successor in interest, to:

- a. Foreclose on the subject property in compliance with the remedies permitted by law and written in a recorded contract or deed of trust; or
- b. Accept a deed of trust or assignment to the extent of the value of the unpaid first mortgage to the current market value in lieu of foreclosure in the event of default by a trustor; or
- c. Sell the property to any person at a price consistent with the provisions of this Section subsequent to exercising its rights under the deed of trust.

In addition, the following types of transfers shall remain subject to the requirements of the County's loan and right of first refusal: transfer by gift, devise, or inheritance to the owner's spouse; transfer to a surviving joint tenant; transfer to a spouse as part of divorce or dissolution proceedings; or acquisition in conjunction with a marriage; or transfer as a result of foreclosure.

2. **Rental units.** Prior to the issuance of any project construction permits the property owner and the County shall enter into and record a Rent Limitation Agreement, prepared by County Counsel, assuring that the project will provide designated affordable housing unit(s). Rent levels shall be based on the same criteria as those used to compute the original rent ceiling in Subsection E for a period of at least 55 years. The rent levels will be enforced through the Review Authority imposing applicable conditions at the time of land use permit or subdivision approval for the project. If ownership of the property is transferred during the initial 55 years period, then a new Rent Limitation Agreement shall be executed with a term of 55 years.

G. **Exceptions to initial sales price limitations and resale restrictions.** The Director of the Planning and Building Department may grant an exemption to the initial sales price limitation and resale restrictions for housing units that meet all of the following criteria:

1. The housing units are provided in a development consisting exclusively of housing for very low income, lower income or moderate income households; and
2. The housing units are constructed with at least 50 percent of the work performed by volunteers and/or households purchasing the housing; and
3. The Director of the Planning and Building Department has determined that the home purchase financing provided will be affordable to the purchasing households for at least 30 years.

SECTION 3. That the Board of Supervisors has considered the General Rule Exemption prepared with respect to the matter described above. The Board of Supervisors has, as a result of its consideration, and the evidence presented at the hearings on said matter, determined that the proposed General Rule Exemption as heretofore prepared and filed, is appropriate, and has been prepared and is hereby approved in accordance with the California Environmental Quality Act and the County's regulations implementing said Act. The Board of Supervisors, in adopting this ordinance, has taken into account and reviewed and considered the information contained in the General Rule Exemption approved for this project and all comments that were received during the public hearing process. On the basis of the General Rule Exemption, there is no substantial evidence that the adoption of this ordinance will have a significant effect on the environment.

SECTION 4. If any section, subsection, clause, phrase or portion of this ordinance is for any reason held to be invalid or unconstitutional by the decision of a court of competent jurisdiction, such decision shall not affect the validity or constitutionality of the remaining portion of this ordinance. The Board of Supervisors hereby declares that it would have passed this ordinance and each section, subsection, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

SECTION 5: This ordinance shall take effect and be in full force on and after 30 days from the date of its passage hereof. Before the expiration of 15 days after the adoption of this ordinance, it shall be published once in a newspaper of general circulation published in the County of San Luis Obispo, State of California, together with the names of the members of the Board of Supervisors voting for and against the ordinance.

INTRODUCED at a regular meeting of the Board of Supervisors held on the fifth December 2006, and PASSED AND ADOPTED by the Board of Supervisors of the County of San Luis Obispo, State of California, on the 15th day of May, 2007, by the following roll call vote, to wit:

AYES: Supervisors James R. Patterson, Bruce S. Gibson, Harry L. Ovitt,
K.H. 'Katcho' Achadjian, Chairperson Jerry Lenthall

NOES: None

ABSENT: None

ABSTAINING: None

JERRY LENTHALL

Chairman of the Board of Supervisors,
County of San Luis Obispo,
State of California

ATTEST:

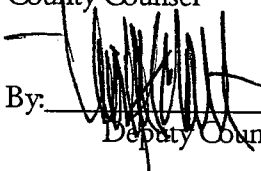
JULIE L. RODEWALD

County Clerk and Ex-Officio Clerk
of the Board of Supervisors
County of San Luis Obispo, State of California

By: **C.M. CHRISTENSEN** Deputy Clerk
[SEAL]

ORDINANCE CODE PROVISIONS APPROVED
AS TO FORM AND CODIFICATION:

JAMES B. LINDHOLM, JR.
County Counsel

By:  Deputy County Counsel

Dated: 5.7.07